

10/027,160
Art Unit 1751
Examiner Gregory E. Webb

Remarks

The Final Office Action mailed on January 26, 2007 has been reviewed and the Examiner's comments have been carefully considered. Claims 79-81 and 83-88 were considered. Claims 79-81 and 83-87 stand rejected and Claim 88 has been allowed. New dependent claim 89 is added and claims 79-81 and 83-89 are now pending.

New dependent claim 89 which depends from independent claim 79 further recites the presence of at least one co-solvent in the wash liquor, and also recites that the working fluid working fluid of the wash liquor has an oil solvency greater than water without being oleophilic.

In response to the rejection of claims 79-81 and 83-87 under 35 USC §103(a) rejections as being unpatentable over by Flynn et al. (US 5,962,390) in view of the cited secondary references, Applicants hereby submit a Declaration under 37 C.F.R. §1.131 of Mr. Tremitchell Wright, an inventor of the present application. The Declaration and supporting documents show that Applicants had conceived of and diligently reduced to practice the wash liquor compositions recited in the independent claims prior to the effective 102(e) date (filing date). Applicants swear behind the Flynn et al. reference to remove it from consideration.

Claim Rejections Under 35 USC § 103

I. Claims 79-81 and 83-87 are not obvious under 35 USC § 103 as being unpatentable over Flynn, et al (US5,962,390) in view of each of Smith, et al. (US5,238,587), Muzutani (US 4,102,824) and Broze et al (US 4,786,431)

Claims 79-81 and 83-87 stand rejected under 35 USC § 103 as being unpatentable over Flynn, et al (US5,962,390) in view of Smith, et al. (US5,238,587).

The USPTO acknowledges that the Flynn et al. reference discloses a cleaning composition but does not disclose a washing additive having a fragrance as set forth in the pending patent application.

Applicants respectfully submit that there remains no past or present teachings which disclose wash liquors comprising a non-aqueous working fluid which also contains a washing

10/027,160
Art Unit 1751
Examiner Gregory E. Webb

additive which includes a perfume. As explained in the 37 C.F.R. §1.132 Declaration of Mr. Tremitchell Wright, and filed in Response to the previous Office action dated April 6, 2006, the long-standing, historical practices of the dry-cleaning industry have been that the non-aqueous wash liquors do not include perfume. This is evidenced by, for example, by the Login et al. patents (U.S. Patent Nos. 5,093,031 and 5,294,644) already of record herein. Still none of the cited references of record disclose a non-aqueous wash liquor which contains an additive comprising a fragrance.

Smith, et al. (US5,238,587) cited in the present Office action, discloses a porous substrate sheet article impregnated with a gelled liquid cleaning composition which is not at all present in a wash liquor. The substrate sheet is used in a dryer and as a freshener for clothes. One of ordinary skill in the art would not look to Smith et al. and be motivated to include perfume in a wash additive of a non-aqueous wash liquor composition. One of the many advantages of the porous substrate sheet containing perfume is its use on clothing at some point after the wash cycle had already been completed. Hindsight reconstruction without otherwise showing any evidence of motivation to combine the Flynn et al. and Smith et al. references to arrive at the wash liquor claimed by Applicants is improper under 35 U.S.C. §103.

In addition, the Mizutani et al. and Broze et al. references disclose detergents which include perfumes. These perfumes additives are used with other additives, including organic additives, but for use in aqueous wash systems. The USPTO states that odor is the key and that Applicant is addressing "a well-known solution to a well-known problem." However, Applicants respectfully submit that malodorous residue has been around for a long time, yet the absence of a non-aqueous wash liquors containing the additives with a fragrance simply emphasizes the fact that this the development of non-aqueous wash liquors containing a fragrance is not an obvious practice.

Applicants respectfully requests withdrawal of the rejection of claims 79-81 and 83-87 rejected under 35 USC §103 as being unpatentable over Flynn et al. in view of Smith, et al., Mizutani et al. and Broze et al., respectively.

Accordingly Applicants respectfully request that claims 79-81 and 83-87 be found in condition for allowance.

10/027,160
Art Unit 1751
Examiner Gregory E. Webb

II. Declaration under 37 C.F.R. 1.131

Applicants hereby submit the Declaration under 37 C.F.R. §1.131 of Mr. Tremitchell Wright, an inventor of the present application to swear behind the reference of Flynn et al. U.S. Patent No. 5,962,390 (Ser. No. 08/649,361) filed on May 17, 1996 and to remove it from consideration.

Applicants' patent application 10/027,160 filed on December 20, 2001 is a Divisional of Application Serial No. 09/520,653, filed on March 7, 2000, which is a Divisional of 09/038,054, filed on March 11, 1998, which claims the benefit of the earlier filing date of provisional patent application 60/045,072 filed on April 29, 1997.

Flynn et al. U.S. Patent No. 5,962,390 (Ser. No. 08/649,361) filed on May 17, 1996 and issued on October 5, 1999 is a continuation-in-part of application No. 08/573,416 filed on December 15, 1995, and issued Pat. No. 5,926,390, and which is a continuation of application No. 08/375,812, filed January 20, 1995 now abandoned.

The Declaration and supporting documents show that the applicants had conceived of and diligently reduced to practice a composition for laundering a fabric load recited in the independent claims prior to the effective 102(e) date (filing date) of Flynn et al. The supporting documents also show that Applicants identified working fluids that inert and effective, and have identified several non exclusive candidates. One such document shows Fluoroinert and describes certain desirable chemical qualities, including that it has no deterative qualities and is non-reactive. In short, the documents evidence a conception and reduction to practice, thus removing the reference from consideration.

10/027,160
Art Unit 1751
Examiner Gregory E. Webb

Conclusion

In summary, Applicants believes that this Amendment is fully responsive to the Final Office Action mailed on January 26, 2007, and that Applicants' claims include features that patentably define over the cited references. It is respectfully requested that for the foregoing reasons discussed above and in view of the Declaration of Mr. Tremitchell Wright, that the claims 79-81 and 83-87 and new claim 89 of this application be found in condition for allowance. If the Examiner believes there are any further matters, which need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.

If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0959, referencing our Docket No. US19984054-3 (094342.0038).

Respectfully submitted,

By: Eileen T. Mathews May 29, 2007
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